

**2013 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB139)**

Received: **4/23/2013** Received By: **mduchek**  
Wanted: **Today** Same as LRB: **s0036**  
For: **Gary Hebl (608) 266-7678** By/Representing: **Mike Murray**  
May Contact: Drafter: **mduchek**  
Subject: **Occupational Reg. - misc** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email: **Rep.Hebl@legis.wisconsin.gov**  
Carbon copy (CC) to: **michael.gallagher@legis.wi.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Changes to physician informed consent

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**Instructions:**

Delete s. 448.30 (7) from the bill, companion to s0036

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mduchek 4/23/2013	scalvin 4/23/2013	jmurphy 4/23/2013	_____	srose 4/23/2013	srose 4/23/2013	

FE Sent For:

<END>

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/1	mduchek	11 SAC 04/23/2013					
			Jim 4/23	self			

FE Sent For:

<END>

**Duchek, Michael**

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**From:** Murray, Mike  
**Sent:** Tuesday, April 23, 2013 9:39 AM  
**To:** Duchek, Michael  
**Subject:** AB 139 Substitute Amedment

Hi Michael,

Rep. Hebl would like to draft a substitute amendment to AB 139 that is identical to LRB 0036/1 that you have drafted for SB 137.

Thanks for your help and please let me know if you have any questions.

Mike

Mike Murray  
Office of Rep. Gary Hebl  
46th Assembly District



State of Wisconsin  
2013 - 2014 LEGISLATURE  
TODAY

Companion  
maker  
run



LRBs0086/1

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ASSEMBLY  
~~SENATE~~ SUBSTITUTE AMENDMENT,  
TO ~~SENATE~~ BILL 1371 139  
ASSEMBLY

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- 1 AN ACT *to repeal* 448.30 (1); and *to amend* 448.30 (intro.) of the statutes;  
2 relating to: the duty of physicians to inform patients of treatment options.

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***Analysis by the Legislative Reference Bureau***

Under Wisconsin's physician informed consent law, a physician who treats a patient has a duty to inform the patient about the availability of all alternate, viable medical modes of treatment and the benefits and risks of those treatments, subject to certain exceptions. A physician who fails to so inform a patient about modes of treatment may be held civilly liable for damages under tort law. The Wisconsin Supreme Court has employed a "reasonable patient standard" to determine whether a physician has fulfilled his or her duty. Under the reasonable patient standard, a physician must disclose information necessary for a reasonable person in the patient's position to make an intelligent decision with respect to the choices of treatment. The Wisconsin Supreme Court has also held that the duty to inform a patient about alternate modes of treating the patient's condition includes the duty to inform a patient about alternate modes of diagnosing the patient's condition.

This substitute amendment instead provides that any physician who treats a patient has a duty to inform the patient about the availability of reasonable alternate medical modes of treatment and the benefits and risks of those treatments, and provides that the "reasonable physician standard" is the standard for informing a patient under the physician informed consent law. The substitute amendment provides that the reasonable physician standard requires the disclosure only of

information that a reasonable physician in the same or a similar medical specialty would know and disclose under the circumstances.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 448.30 (intro.) of the statutes is amended to read:

**448.30 Information on alternate modes of treatment Informed consent.** (intro.) Any physician who treats a patient shall inform the patient about the availability of all reasonable alternate, viable medical modes of treatment and about the benefits and risks of these treatments. The reasonable physician standard is the standard for informing a patient under this section. The reasonable physician standard requires disclosure only of information that a reasonable physician in the same or a similar medical specialty would know and disclose under the circumstances. The physician's duty to inform the patient under this section does not require disclosure of:

**SECTION 2.** 448.30 (1) of the statutes is repealed.

### SECTION 3. Initial applicability.

(1) This act first applies to a cause of action that accrues on the effective date of this subsection.

(END)